

Senate Bill No. 1215

Passed the Senate August 29, 2012

Secretary of the Senate

Passed the Assembly August 28, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3070, 3090, 3147, 3147.6, and 3152 of, and to add Sections 3151 and 3151.1 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1215, Emmerson. Optometry.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. A violation of the act is a crime. Existing law requires a healing arts board to issue, upon specified application and payment, an inactive license to a current holder of an active license whose license is not suspended, revoked, or otherwise restricted. Existing law prohibits the holder of an inactive license from engaging in any activity requiring a license.

This bill would require the board to issue, upon application and payment of a specified fee not to exceed \$25, a retired license to an optometrist with a current and active license. The bill would prohibit the holder of a retired license from engaging in the practice of optometry. The bill would authorize the holder of a retired license to use only certain titles and would also authorize the holder of such a license to reactivate the license to active status if certain requirements have been met, including the payment of a reactivation fee to be determined by the board. The bill would also require the board to issue, upon application certifying the completion of specified continuing education hours and the payment of a fee not to exceed \$50, a retired license with a volunteer service designation to an optometrist with a retired or current and active license. The bill would make a retired license with a volunteer service designation subject to biennial renewal requirements including the payment of a fee not to exceed \$50 and the certification of, among other things, completion of the required continuing education hours. Because the bill would direct the deposit of these fees into the Optometry Fund, a continuously appropriated fund, the bill would make an appropriation.

Existing law authorizes the board to take action against all persons guilty of violating this act and requires the board to enforce and administer specified disciplinary provisions with respect to licenseholders.

This bill would specify that, for purposes of the above provisions, licenseholders include those who hold a retired license, a license with a retired volunteer designation, or an inactive license.

Under existing law, a licensed optometrist is required to notify the board of, among other things, the address or addresses where he or she is to engage or intends to engage in the practice of optometry. Existing law imposes specified issuance, biennial renewal, and delinquency fees concerning a statement of licensure. Existing law exempts a licensed optometrist from this address notification requirement if he or she engages in the temporary practice of optometry, as defined by the board, in certain specified settings.

This bill would eliminate the requirement that a licensed optometrist provide that notification with respect to where he or she intends to engage in the practice of optometry. The bill would also require a licensed optometrist, except as specified, to obtain a statement of licensure from the board to be placed in specified practice locations. The bill would define temporary practice as the practice of optometry at locations other than the optometrist's principal place of practice for limited periods, as specified, and would require a licensed optometrist in temporary practice to submit an application for a statement of licensure if the time period for that practice needs to be extended, as specified.

The bill would make other nonsubstantive, technical and conforming changes.

Because the bill would specify additional requirements under the Optometry Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 3070 of the Business and Professions Code is amended to read:

3070. (a) Before engaging in the practice of optometry, each licensed optometrist shall notify the board in writing of the address or addresses where he or she is to engage in the practice of optometry and, also, of any changes in his or her place of practice. After providing the address or addresses and place of practice information to the board, a licensed optometrist shall obtain a statement of licensure from the board to be placed in all practice locations other than an optometrist's principal place of practice. Any licensed optometrist who holds a branch office license is not required to obtain a statement of licensure to practice at that branch office. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.

(b) A licensed optometrist is not required to provide the notification described in subdivision (a) if he or she engages in the temporary practice of optometry. "Temporary practice" is defined as the practice of optometry at locations other than the optometrist's principal place of practice for not more than five calendar days during a 30-day period, and not more than 36 days within a calendar year. This limitation shall apply to all practice locations where the licensed optometrist is engaging in temporary practice, not to each practice location individually. If the time period of the temporary practice needs to be extended for any reason, the licensed optometrist shall submit an application for a statement of licensure to the board pursuant to Section 1506 of Title 16 of the California Code of Regulations.

(c) Notwithstanding Section 3075, an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall carry and present upon demand evidence of his or her licensure but shall not be required to post his or her current license or other evidence of current license status issued by the board.

(d) In addition to the information required by Section 3076, a receipt issued to a patient by an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall contain the address of the optometrist's

primary practice location and the temporary practice location where the services were provided.

SEC. 2. Section 3090 of the Business and Professions Code is amended to read:

3090. Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, including those who hold a retired license, a license with a retired volunteer designation, or an inactive license issued pursuant to Article 9 (commencing with Section 700) of Chapter 1, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board.

SEC. 3. Section 3147 of the Business and Professions Code is amended to read:

3147. Except as otherwise provided by Section 114, an expired license may be renewed at any time within three years after its expiration, and a retired license issued for less than three years may be reactivated to active status, by filing an application for renewal or reactivation on a form prescribed by the board, paying all accrued and unpaid renewal fees or reactivation fees determined by the board, paying any delinquency fees prescribed by the board, and submitting proof of completion of the required number of hours of continuing education for the last two years, as prescribed by the board pursuant to Section 3059. Renewal or reactivation to active status under this section shall be effective on the date on which all of those requirements are satisfied. If so renewed or reactivated to active status, the license shall continue as provided in Sections 3146 and 3147.5.

SEC. 4. Section 3147.6 of the Business and Professions Code is amended to read:

3147.6. Except as otherwise provided by Section 114, a license that is not renewed within three years after its expiration may be restored, and a retired license issued for more than three years may be reactivated to active status, if no fact, circumstance, or condition

exists that, if the license were restored, would justify its revocation or suspension, provided all of the following conditions are met:

(a) The holder of the expired license or retired license is not subject to denial of a license under Section 480.

(b) The holder of the expired license or retired license applies in writing for its restoration or reactivation on a form prescribed by the board.

(c) The holder of the expired license or retired license pays the fee or fees as would be required of him or her if he or she were then applying for a license for the first time.

(d) The holder of the expired license or retired license satisfactorily passes both of the following examinations:

(1) The National Board of Examiners in Optometry's Clinical Skills examination or other clinical examination approved by the board.

(2) The board's jurisprudence examination.

(e) After taking and satisfactorily passing the examinations identified in subdivision (d), the holder of the expired license or retired license pays a restoration fee equal to the sum of the license renewal fee in effect on the last regular renewal date for licenses or a reactivation fee determined by the board, and any delinquency fees prescribed by the board.

SEC. 5. Section 3151 is added to the Business and Professions Code, to read:

3151. (a) The board shall issue, upon application and payment of the fee described in Section 3152, a retired license to an optometrist who holds a license that is current and active.

(b) A licensee who has been issued a retired license is exempt from continuing education requirements pursuant to Section 3059. The holder of a retired license shall not be required to renew that license.

(c) The holder of a retired license shall not engage in the practice of optometry.

(d) An optometrist holding a retired license shall only be permitted to use the titles "retired optometrist" or "optometrist, retired."

(e) The holder of a retired license issued for less than three years may reactivate the license to active status if he or she meets the requirements of Section 3147.

(f) The holder of a retired license issued for more than three years may reactivate the license to active status if he or she satisfies the requirements in Section 3147.6.

SEC. 6. Section 3151.1 is added to the Business and Professions Code, to read:

3151.1. (a) The board shall issue, upon application and payment of the fee described in Section 3152, a license with retired volunteer service designation to an optometrist who holds a retired license or a license that is current and active.

(b) The applicant shall certify on the application that he or she has completed the required number of continuing education hours pursuant to Section 3059.

(c) The applicant shall certify on the application that the sole purpose of the license with retired volunteer service designation is to provide voluntary, unpaid optometric services at health fairs, vision screenings, and public service eye programs.

(d) The holder of the retired license with volunteer service designation shall submit a biennial renewal application, with a fee fixed by this chapter and certify on each renewal that the required number of continuing education hours pursuant to Section 3059 were completed, and certify that the sole purpose of the retired license with volunteer service designation is to provide voluntary, unpaid services as described in subdivision (c).

SEC. 7. Section 3152 of the Business and Professions Code is amended to read:

3152. The amounts of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

(a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars (\$275).

(b) The fee for renewal of an optometric license shall not exceed five hundred dollars (\$500).

(c) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).

(d) The fee for a branch office license shall not exceed seventy-five dollars (\$75).

(e) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).

(f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).

(g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).

(h) The application fee for a certificate to perform lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).

(i) The application fee for a certificate to treat glaucoma shall not exceed fifty dollars (\$50).

(j) The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).

(k) The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).

(l) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).

(m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).

(n) The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).

(o) The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).

(p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).

(q) The fee for a retired license shall not exceed twenty-five dollars (\$25).

(r) The fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).

(s) The biennial renewal fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2012

Governor